IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Family Court Appeal No. 111 of 2006
with
Civil Application No.215 of 2006

Vinod Raghunath Desai ..Appellant

vs.

Mrs.Vanita Vinod Desai ..Respondent

Shri S.U.Sadavarte for appellant.
Shri Hemant Kanjalkar for respondent.

CORAM: S.B.MHASE &
Smt.NISHITA MAHTRE JJ.
13th February, 2007

P.C.

1. Heard.

2. The decree for divorce under sec.13(1)(ia) of the Hindu Marriage Act, 1955 has been passed. While passing the said decree, the appellant was further directed to provide monthly maintenance of Rs.2,000/- to each of the daughters till their marriage and Rs.1500/- p.m. as permanent alimony to the respondent wife. The amount of Rs.3000/- was directed to be paid as cost of litigation. So far as the decree for divorce is concerned, it is not under challenge in this appeal. Only challenge is in respect of the amount of maintenance which is directed to be paid to

the daughters and wife. The appellant is having two daughters. So the amount of maintenance for daughters would be Rs.4000/- p.m. and the wife is entitled to get Rs.1500/- p.m. So the total monthly maintenance allowance is Rs.5500/- So far as the income of the appellant is concerned, the appellant has claimed that he is earning Rs.5000/- but surprisingly he has not produced on record his income slip. He is in the employment and, therefore, the best possible evidence is the income slip of the appellant which has not been produced on record to demonstrate what is his actual income. It is further to be noted that he was possessed of a flat which admittedly he has disposed of for Rs.5,00,000/- and has purchased another flat at Rs.6,00,000/- by raising a loan from the G.P.F. That shows his financial position and capacity to acquire the property. This has been considered by the Family Court and thereafter the order in question has been passed. Even in this Court when the matter was being argued at the admission stage, no evidence in respect of the actual earning of the appellant was produced on record except the oral submission. We find that there is a suppression of fact of income. If a man is

not earning then how he can acquire the property by raising loan. We cannot forget that the property has been acquired in suburbs of Mumbai and that it is indication that the appellant is economically or financially sound person to provide maintenance as has been directed by the Family Court. We have to take into consideration the bare necessities of the respondent wife and children and taking into consideration the present standard of living and price hike of the essential commodities we find that the maintenance amount which has been fixed by the Family Court is just and proper. We do not find any substance in entertaining the appeal. The appeal is hereby summarily rejected.

3. In view of rejection of the appeal civil application does not survive and hence rejected.

(Smt.NISHITA MHATRE J.) **(S.B.MHASE J.)**